THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.22734 OF 1998

DATED: 31.10.2007

Between:

Smt Y. Padmavathi

.. Petitioner

And

Additional Commissioner, Overseas Development Authority, Municipal Corporation of Hyderabad, Lower Tank Bund, Hyderabad and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.22734 OF 1998

ORDER:

This writ petition is directed against the award, dated 19.04.1997, passed in I.D.No.176 of 1994, on the file of the Industrial Tribunal, Hyderabad-II at Hyderabad.

The petitioner is the workman and the respondents 1 to 4 are the management. It appears, Bhagyanagar Municipal Employees' Union had raised a dispute demanding the 1st respondent to regularize the services of the petitioner herein, who was working as Community Health Volunteer with the Municipal Corporation of Hyderabad since eight years. Ultimately, the matter was referred to the Industrial Tribunal, Hyderabad-II, by the Government, under Section 10 (1) (d) of the Industrial Disputes Act, 1947 (for short 'the I.D. Act'), for adjudication of the following issue:

> "Whether the Bhagyanagar Municipal Employees' Union, B.M.6., is justified in demanding the Additional Commissioner, Overseas Development Authority & Commissioner, M.C.H. to regularize the services of Smt Padmavathi, Community Health Volunteer, who is working since (8) years?
>
> If not, to what relief Smt Padmavathi, Community Health Volunteer is entitled?"

It was the case of the petitioner that she, along with 13 others,

was appointed as Community Health Volunteer by the Municipal Corporation of Hyderabad, in the year 1985, on an honorarium of Rs.250/- (consolidated) per month. An artificial break was given for two days i.e. on 09.09.1985 and 10.09.1985 and again she and others were appointed on honorarium basis for 89 days from 11.09.1985. After the said period of 89 days i.e. after 08.12.1985 till 16.12.1994, the date on which the petitioner was appointed on regular basis, the work allotted to her was educating the slum community on the importance of immunization by employing modern techniques of effective audio visual presentations of slides, pamphlets, posters and the like. While so, the petitioner complains that on recommendation of the authorities, the Government has issued G.O. for absorption of 12 male Community Health Volunteers as Family Welfare Workers, but she and two other lady volunteers were ignored on the ground of gender and thereby the Corporation has violated the fundamental rights guaranteed under Articles 14, 15 and 16 of the Constitution of India. In spite of several requests, no action has been taken and, therefore, the Union has raised the dispute, which was ultimately referred to the Industrial Tribunal for adjudication.

In the counter filed by the Corporation, it is stated that Community Health Volunteers cannot be treated as regular employees and their services are purely part time services, on temporary basis and are to be terminable at any time without giving any notice or assigning any reason whatsoever. The O.D.A. scheme, under which the Community Health Volunteers were appointed, is a temporary scheme sponsored by a foreign agency. Further, the scheme under which the 12 male candidates were appointed as Family Welfare Workers is exclusively meant for male candidates only. However, the petitioner was

appointed as a Clerk on regular basis with effect from 16.12.1994. Therefore, the service rendered by the petitioner as Community Health Volunteer cannot be taken into consideration for regularization since Community Health Volunteers cannot be treated as employees of the Corporation.

Before the Tribunal, on behalf of the petitioner, she herself has been examined as W.W.1 and Exs.W1 to W10 were marked. On behalf of the management, M.W.1 was examined and Exs.M1 to M9 were marked.

After detailed consideration of the entire evidence available on record, the Tribunal observed that the petitioner (W.W.1) herself deposed that she was appointed in the year 1985 as Community Health Volunteer on a consolidated pay of Rs.250/- per month and that in the year 1989 i.e. on 07.01.1989, 12 male candidates were appointed although there were 14 vacancies. Further, in the cross-examination, she deposed that she was engaged on part time basis and she used to work for one or two hours a day by motivating the ladies for family planning and also admitted that she worked on the basis of honorarium under O.D.A. scheme. The Tribunal, though held that no cogent reasons were furnished as to why female candidates cannot work as Family Welfare Workers, observed that if the petitioner felt it as discrimination, she ought to have challenged Ex.M1, G.O. issued by the Government permitting absorption of the services of 12 male Volunteers, or Ex.M9, proceedings appointing the said 12 male candidates as Family Welfare Workers, or both before the High Court. Further, while noticing the fact that the petitioner was already appointed as clerk in the year 1994 on regular basis, the Tribunal held that the Union was not justified in demanding the 1st respondent

herein to regularize the services of the petitioner. Accordingly, no relief was granted to the petitioner. Aggrieved by the same, the present writ petition is filed.

From the above, it is seen that petitioner was not a regular employee of the Corporation, but she was only a volunteer working on temporary basis for one or two hours a day, on a consolidated honorarium of Rs.250/- per month, for motivating the female for family planning. May be some male Community Health Volunteers were absorbed as Family Welfare Workers in the regular pay scale and thereby some discrimination is meted out to the petitioner, but the petitioner never challenged those G.O. or appointment orders issued in favour of those persons. Admittedly, the scheme under which the petitioner was appointed as Community Health Worker and the scheme under which the 12 male candidates were absorbed as Family Welfare Workers are altogether different schemes and the management made it clear that those 12 posts were exclusively meant for male candidates.

Under those circumstances, I am of the opinion that the Tribunal has not committed any error in passing the impugned award calling for interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V. RAMULU, J

31st October, 2007.
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